

ACCOUNTABILITY MECHANISMS

Work Item: WP1-5B-1: Prevent ICANN Imposing Obligations – Accountability Contract
Drafter: Keith Drazek (kdrazek@verisign.com)
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	Name of Mechanism	Prevent ICANN Imposing Obligations (using an Accountability Contract)
Description	Description	This would be a new restriction to prevent ICANN from expanding its mandate through the unilateral addition of new obligations or requirements on registries, registrars and registrants.
	Category (check & balance, review, redress)	Check and balance: This restriction will ensure that ICANN cannot use its position to unilaterally impose new requirements on its contracted counter-parties, including domain name registrants. It ensures that ICANN must rely on established processes to develop and implement new or amended policies that are necessary for the secure and stable operation of the DNS. It ensures multi-stakeholder community is responsible for developing consensus policies within predictable and transparent bottom-up processes, and that role cannot be circumvented by ICANN.
	Is the mechanism triggered or non triggered ?	Non-Triggered Through a new Accountability Contract with Registries, Registrars and Registrants, this would be a new, non-triggered mechanism. It could be a new, stand-alone agreement or it could be incorporated into existing Registry Agreements, Registrar Accreditation Agreements and Registration Agreements.
	Possible outcomes (approval, re-do, amendment of decision, etc.)	A new Accountability Contract would give the community, powers to constrain an ICANN staff and/or Board that attempted to expand its mandate beyond accepted borders through the addition of new requirements on contracted parties and registrants. Breach of the Accountability Contract by ICANN would constitute grounds for reconsideration and redress.
Standing	Conditions of standing (ie « last resort », type of decision being challenged, ...)	The Contracted Parties (Registries, Registrars and Registrants) would have the power to trigger this mechanism if needed. As a non-triggered mechanism, a clear and concise Accountability Contract would ideally act as a deterrent to ICANN unilaterally imposing new obligations on contracted parties.

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CCWG Accountability

Template

Decision-Making	Who decides when the Accountability Contract is breached and what procedures are to be used?	<p>The Accountability Contract would need to clearly establish:</p> <ul style="list-style-type: none"> • thresholds for breach • notice procedures • opportunities for cure • penalties for breaches not cured
Accessibility	Who relies on this mechanism?	<p>Contracted Parties and registrants are the parties who rely directly on an Accountability Contract to prevent new obligations or requirements. However, the entire multi-stakeholder community benefits from an ICANN that operates within its mandate and follows bottom-up, consensus-based policy making processes. The entire community benefits from knowing new requirements or obligations result only from accepted community processes.</p>

Other considerations if this mechanism was implemented:

- A key question: “How do we ensure Registrants are included and/or represented in the Accountability Contract?”